



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 6, 1998

Ms. Mary Barrow Nichols
General Counsel
Texas Workers' Compensation
Insurance Fund
221 West 6th Street, Suite 300
Austin, Texas 78701-3403

OR98-2623

Dear Ms. Nichols:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 119306.

The Texas Workers' Compensation Insurance Fund (the "Fund") received a request for information concerning commissions generated by each manager and the "[t]otal equity assets under management, broken down by each manager as of June 30, 1998." You inform us that the Fund will release some of the requested information. You assert that the requested equity assets information is excepted from required public disclosure based on section 552.101 of the Government Code.

Section 552.101 of the Government Code excepts from required public disclosure information that is deemed confidential by law, including information that is made confidential by statute. You raise section 2(b) of article 5.76-3 of the Insurance Code. That provision states that the Fund may "refuse to release information relating to claims, rates, the Fund's underwriting guidelines, and other information that would give advantage to competitors or bidders." You assert that the requested equity assets information is "other information that would give advantage to competitors or bidders."

You state:

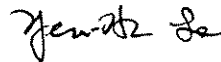
Like any insurance company operating in this state, the Fund must carefully choose its investment firms and options in order to maintain its financial viability; investment earnings are material to the overall financial health of an insurer. The Fund's financial program through

the use of investments could be undermined by the release of information concerning its investment managers and the total equity assets under management. Our investment position and strategies could be scrutinized by our competitors, who could then adjust their own investment strategies accordingly, at the expense of the Fund. The Fund's competitive position in the marketplace could suffer if the Fund's competitors made economic gains through the use of the Fund's private investment information.

We agree that the release of the requested equity assets information could give advantage to the Fund's competitors. Thus, pursuant to section 552.101 of the Government Code in conjunction with section 2(b) of article 5.76-3 of the Insurance Code, you must withhold the requested information.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/nc

Ref.: ID# 119306

Enclosures: Submitted document

cc: Ms. Ashley A. Shaw
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Rockville, Maryland 20852
(w/o enclosures)